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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,540	12/31/2003	Richard F. Gladney	SMCY-P02-099	5566
28120	7590	04/06/2006	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,540

Applicant(s)

GLADNEY, RICHARD F.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 14-34 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/15/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,065,485 to Zocco.

Claim 29, Zocco discloses a mattress, comprising,
a substantially rigid base platform 10,
a perimeter sidewall (1a,1b) attached directly to the substantially rigid base platform and defining an interior cavity (col. 3 lines 53-55),
an innercore (3-5) disposed within the cavity, and
an upholstery layer (101,103) disposed over a top surface of the innercore.

Claim 30, wherein the perimeter sidewall is attached directly to the substantially rigid base platform by a an adhesive joint, said adhesive joint selected from glue (col. 3 lines 53-55).

Claim 32, wherein the innercore is springs 3 in foam innercore 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 16, 18, 20-21, 23, and 25-27 and are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco.

Claims 14, 16, Zocco discloses a mattress comprising
a substantially rigid bottom panel/platform (10) consisting of foam;
a perimeter sidewall (1a,1b) joined to the bottom panel, said bottom panel and perimeter sidewall defining an interior cavity (col. 3 lines 50-52); and
an innercore (3-5) having a bottom surface 3 disposed within the cavity,
wherein said portion of the bottom surface of the bottom surface of the innercore is joined to the bottom panel by an adhesive (col. 3-4 lines 64-68 & 1-2). Zocco fails to disclose the adhesive applied in a region proximate to the perimeter of the side wall with a remaining portion being unattached to the bottom panel. It is considered an obvious modification to apply the adhesive in a specific pattern and it would have been obvious for one having ordinary skill in the art at the time of the invention to apply an adhesive in a region proximate to the perimeter of the side wall with a remaining portion being unattached to the bottom panel in order to secure the innercore to the bottom panel.

Claim 18, wherein the mattress is a two sided mattress, with the platform capable of forming a second sleeping surface.

Claim 20, further comprising an upholstery layer (101,103) disposed over a top surface of the innercore.

Claim 21, wherein the perimeter sidewall is made of foam (col. 3 lines 50-52).

Claim 23, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of foam and providing support to the innercore.

Claim 25, wherein the innercore comprising a block of resilient foam 3 (col. 3 lines 65-66).

Claim 26, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive (col. 3 lines 53-55).

Claim 27, wherein the perimeter sidewall comprises a plurality of sidewall sections (1a,1b).

Claims 15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco in view of U.S. Pat. No. 5,040,255 to Barber.

Claim 15, Zocco discloses all of the Applicant's claimed limitations as discussed above except for the inner core having pocketed springs. Barber discloses a mattress wherein the innercore comprises pocketed springs and the adhesive bonds fabric surrounding the pocketed springs to the bottom panel (col. 2 lines 25-33). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ pocketed springs as taught by Barber (col. 1 lines 45-50) in order to extend the expected lifespan of the mattress.

Claim 24, Zocco discloses the mattress of claim 14 as discussed above, and Baber discloses the innercore is a fabric-encased spring coil (col. 2 lines 25-33).

Claims 17 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco.

Claims 17 and 33, Zocco the mattress of claim 16, as discussed above, but fails to disclose the platform comprising a plurality of layers. It is considered an obvious modification to separate the platform into a plurality of layers and it would have been obvious for one having ordinary skill in the art at the time of the invention to form the platform as stated above in order to provide platform constructed from a plurality of layers.

Claims 19, 22, 28, 31, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco in view of U.S. Pat. No. 6,760,940 to Gladney et al..

Claims 19, 22, and 31, Zocco discloses the mattress of claim 14 as discussed above, but fails to disclose the platform comprise a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD. Gladney discloses a mattress employing a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD (col. 3 lines 49-58). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a high density polyurethane foam as taught by Gladney in order to provide varying degrees of firmness or softness to accommodate individual preferences.

Claims 28 and 34, Zocco discloses the mattress of claim 14 and 29 as discussed above, but fails to disclose a wire. Gladney discloses a mattress having a wire 44. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a wire as taught by Gladney in order to secure the inner spring core around it's periphery to the mattress of Zocco.

Response to Arguments

Applicant's arguments with respect to claims 14-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



JONG-SUK (JAMES) LEE
PRIMARY EXAMINER